

The Commonwealth of Massachusetts

JOURNAL OF THE HOUSE.



THURSDAY, MARCH 5, 2009.

[23] *

JOURNAL OF THE HOUSE.

Thursday, March 5, 2009.

Met according to adjournment, at eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority of Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, Chaplain of the House, as follows:

God, Our Creator, we try to begin each day with a prayer and, hopefully, with the right intention of serving You, our constituents and our families in a faithful and responsible manner. We believe that with Your easily-available assistance, we will be successful in these sometimes difficult efforts. As elected leaders, we also believe that with Your gift of wisdom we will select the right and most reasonable legislative and administrative options which are open to us in these trying times. In addressing the various items on the day's agenda, let our hearts and minds be filled with peace, joy and enthusiasm. Inspire us to continue building confidence and trust in the minds of the people whom we represent. Teach us to be good, patient but critical, listeners to the concerns of and suggestions of the people in these uncertain times. Let us also be mindful of the current needs of the people, the needs of future generations and of our communities in these changing times.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Silent Prayers.

During the session, at the request of Ms. Benson of Lunenburg, the members, guests and employees then stood in a moment of silent tribute for former Lunenburg Fire Chief Dennis Carrier, who passed away on February 13. Mr. Carrier served on the Lunenburg Fire Department for 42 years, serving 21 years as Chief.

During the session, at the request of Representatives Benson of Lunenburg and Hogan of Stow, the members, guests and employees then stood in a moment of silent tribute for Leo Hayes, Jr., of Bolton. Mr. Hayes served on the Acton Fire Department for 7 years.

Statement of Representative Brady of Brockton.

A statement of Mr. Brady of Brockton was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that I was unable to be present in the House Chamber for a portion of today's sitting due to attending the funeral of a family member. Any roll calls that I may have

Prayer.

Pledge of
allegiance.

Dennis Carrier.

Leo Hayes, Jr.

Statement of
Representative
Brady of Brockton.

missed today is due entirely to the reason stated.

Statement Concerning Representative Rush of Boston.

A statement of Mr. Vallee of Franklin concerning Mr. Rush of Boston was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Mr. Rush of Boston, is unable to be present in the House Chamber for today's sitting due to his serving on active duty with the United States Navy in Germany. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement
concerning
Representative Rush
of Boston.

Resolutions.

Mr. Vallee of Franklin being in the Chair,--

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. Guyer of Dalton) honoring Gary Sibilia upon his retirement as the Chief of Police in Northfield; and

Gary Sibilia.

Resolutions (filed by Mr. Hill of Ipswich) honoring the memory of John Updike on the occasion of the three hundred and seventy-fifth anniversary of the town of Ipswich;

John Updike.

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the Rules, in each instance, on motion of Mr. Flynn of Bridgewater, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Recess.

At eight minutes after eleven o'clock A.M., on motion of Mr. Hill of Ipswich (Mr. Vallee of Franklin being in the Chair), the House recessed until the hour of one o'clock P.M.; and at that time the House was called to order with the Speaker in the Chair.

Recess.

The Speaker being in the Chair, --

Ms. Story of Amherst thereupon asked for a count of the House to ascertain if a quorum was present. The Speaker, having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (Mr. Vallee of Franklin being in the Chair) 147 members were recorded as being in attendance.

Quorum,--
yea and nay
No. 23

[See Yea and Nay No. 23 in Supplement.]

Therefore a quorum was present.

Engrossed Bill – Land Taking.

The engrossed Bill authorizing the town of Framingham to erect a maintenance facility (see House, No. 99) (which originated in the House), having been certified by the Clerk to be rightly and truly prepared for final passage.

Framingham, -
maintenance
facility.

On the question on passing the bill to be enacted, the sense of the House was

Bill enacted

taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 149 members voted in the affirmative and 0 in the negative.

(land taking),--
yea and nay
No. 24.

[See Yea and Nay No. 24 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the acting Speaker and sent to the Senate.

Orders of the Day.

Reorganization Plan No. 1 of 2009 (submitted by His Excellency the Governor under the provisions of Article LXXXVII of the Amendments to the Constitution) reorganizing certain agencies of the Executive Department (Senate, No. 11) [being a duplicate of House, No. 106] was considered.

Reorganization
Plan No. 1
of 2009.

After debate on the question: "Shall this reorganization plan be approved?", the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 153 members voted in the affirmative and 0 in the negative.

Reorganization Plan
approved, -yea and
nay No. 25.

[See Yea and Nay No. 25 in Supplement.]

Therefore the House approved Reorganization Plan No. 1 of 2009.

Paper from the Senate.

Mr. Mariano of Quincy being in the Chair, --

The following order came from the Senate with the endorsement that it had been adopted by said branch, as follows:

"Ordered, That a special joint committee be established for the purpose of studying a new division of the commonwealth into (a) Congressional districts under the United States Constitution, (b) 40 senatorial and 8 councillor districts under Section 2 of Article CI of the Amendments to the Constitution, as amended, and (c) 160 representative districts under section 1 of said Article CI. The committee shall consist of 7 senators to be appointed by the president, one of whom shall be a member of the minority party, and 21 representatives to be appointed by the speaker, of whom 4 shall be members of the minority party.

House and Senate
redistricting
committee.

The committee may expend for legal, clerical and other necessary expenses such sums as may be appropriated therefor, shall be provided with quarters in the State House, and shall receive from the state secretary and municipal election officials such data and information in their possession as may be assistance to the committee.

The committee may report from time to time the results of its study, and its recommendations, by filing them with the clerks of the Senate and House of Representatives."

Under suspension of the rules, on motion of Mr. Moran of Boston, the order was considered forthwith.

After remarks on the question of adoption of the order, in concurrence, Mr. Jones of North Reading and others moved the order be amended by striking out the text contained therein and inserting in place thereof the following:

"Ordered, that an independent redistricting commission, herein referred to as the commission, shall be convened and shall divide the commonwealth into congressional districts, 160 representative districts, 40 senatorial districts, and eight

councilor districts. All districts shall comprise contiguous territory, shall be equal in population to the extent required by law, and shall comply with federal constitutional and statutory requirements. No district shall be drawn for the purpose or with the effect of diluting the voting strength of any group based on race, ethnicity or language minority status, or for the purpose of augmenting or diluting the voting strength of a political party, or any individual. In drawing district lines, the commission shall not consider residential address, party affiliation, or partisan voting history of any individual or groups of individuals, except to the extent necessary to avoid dilution of voting strength based on race, ethnicity or language minority status. In addition, to the maximum extent possible, district boundaries shall be drawn so as to: (1) maintain the unity of well-defined municipal neighborhoods; (2) observe municipal boundaries; (3) establish senatorial districts that follow representative district boundaries; (4) establish councilor districts that follow representative district boundaries and (5) promote geographic compactness of districts. If it is not possible to draw district boundaries that fully comply with these criteria while also complying with the mandatory requirements set forth herein, then districts shall be drawn to optimize the criteria in the order of priority set forth hereinabove. The commission shall also consider communities of interest in determining which cities, towns, or neighborhoods thereof to aggregate into a single district.

The commission shall consist of seven member commissioners. On or before January 15 of the year following the commencement of the federal census, the following offices shall each appoint one member of the commission: the governor of the commonwealth, who shall appoint a dean or professor of law or political science or government at an institution of higher learning in the commonwealth; the attorney general of the commonwealth, who shall appoint a retired justice who resides in the commonwealth; and the secretary of the commonwealth, who shall appoint an expert in civil rights law who is a resident of the commonwealth.

By the same date, the house speaker, the house minority leader, the senate president, and the senate minority leader shall each nominate three individuals. The appointees chosen by the governor, attorney general, and secretary of the commonwealth shall then select one of the three nominees named by each said official.

If nominations or appointments are not made by January 15 of such year, the office responsible for making the appointment or nominations shall forfeit its rights under this section and the remaining direct appointees shall then make an appointment to fill the vacancy. Nominations and appointments shall reflect the geographic, racial, ethnic, gender, and age diversity of the commonwealth to the maximum extent feasible and shall be selected on the basis of civic involvement and knowledge of redistricting policy, civil rights, political science, demographics or statistics, election expertise, voting rights, community organizing, or law. No person nominated or appointed to the commission, in the five years preceding such nomination or appointment, shall have held Congressional, state legislative or statewide elective office, or shall have served as mayor or city councilor of a city in the commonwealth, governor's councilor, or shall have been elected to a state or federal party committee; or shall be a current employee, agent or family member of any of the above; or, in the two years preceding such nomination or appointment, shall have been a legislative agent. The commissioners shall agree: (1) not to stand for election to the general court, congress, or the governor's council until districts are redrawn following the next census; (2) to apply the provisions of this article in

an honest, independent, and impartial fashion; and (3) to act at all times so as to uphold public confidence in the integrity of the redistricting process.

The commission shall be convened no later than February 15 of the year following the commencement of the decennial census. The commission shall disband only upon final adoption and exhaustion of judicial review of challenges to representative, councilor, and senatorial districts.

The commission shall hire staff and may retain experts to assist it in the performance of its duties. The commission shall establish rules governing its operation and procedures. Commissioners may receive compensation for actual time spent on commission duties and shall be reimbursed for reasonable and necessary expenses. The budget of the commonwealth shall provide adequate funding for the operation of the commission.

A member of the commission or an appointing authority may petition the supreme judicial court to remove a commissioner on the grounds of neglect, misconduct, or inability to perform the duties of a commissioner. A vacancy so created shall be filled by the office which appointed the removed commissioner or by the nomination and selection process set forth in section 6, as applicable.

All meetings of the commission shall be open to the public, consistent with the laws of the commonwealth concerning open meetings as of the date of the adoption of this Article. All documents produced by or for the commission shall be public. The commission shall hold public hearings in at least five geographically disbursed counties. The public shall be afforded the opportunity to submit proposed maps for consideration by the commission and the commission shall make map-making software available for public use. The commission shall take all steps necessary to ensure that the public can exercise its right to review and comment on proposed district maps before they are approved and shall publish all preliminary and final plans in publicly accessible forums that are free of charge and that ensure wide public distribution. Proposed districts shall be presented in both graphic and narrative form.

Within 120 days of the completion of the decennial census, the commission shall prepare and publish for public comment a preliminary plan for representative, councilor, and senatorial districts. The public shall have a three-week period to comment on the preliminary district plan. The commission may revise the preliminary district plan in response to public comment and shall submit the revised plan to the general court, which shall vote on the revised plan. If the plan is rejected, the commission shall prepare, publish, revise, and submit a second-round preliminary district plan in the same manner as the first. Following the period for public comment, the commission shall submit the revised plan to the general court for a vote. If the general court votes to reject the second-round plan, the commission shall prepare, publish, revise, and submit a third-round preliminary district plan, in the same manner as the first. If the general court rejects the third-round plan, then the commission shall prepare, publish, and revise a fourth-round plan in the same manner. The plan, so revised, shall become law without submission to or approval by the general court.

With respect to each plan the commission submits to the general court for a vote, the vote must be taken within two weeks of submission. No amendments to the plan as submitted may be made. If the plan is approved by a majority of the members of the house of representatives and the senate present and voting or if no vote is taken within the two-week period, then the plan as submitted shall become law.

The federal census shall be the basis for determining congressional

districts for the ten year period beginning with the first Wednesday of the third January following the commencement of the taking of said census. All districts shall be drawn of contiguous territory, shall be equal in population to the extent required by law, and shall comply with federal constitutional and statutory requirements. No district shall be drawn for the purpose or with the effect of diluting the voting strength of a group based on race, ethnicity or language minority status, or for the purpose of augmenting or diluting the voting strength of a political party, or any individual. In drawing district lines, the commission shall not consider residential address, party affiliation, or partisan voting history of any individual or groups of individuals, except to the extent necessary to avoid dilution of voting strength based on race, ethnicity or language minority status. In addition, to the maximum extent possible, district boundaries shall be drawn so as to: (1) maintain the unity of well-defined municipal neighborhoods; (2) observe municipal boundaries; and (3) promote geographic compactness of districts. If it is not possible to draw district boundaries that fully comply with these criteria while also complying with the mandatory requirements set forth herein, then they shall be drawn to optimize the criteria in the order of priority set forth hereinabove. The commission shall also consider communities of interest in determining which cities, towns, or neighborhoods thereof to aggregate into a single district and if all other criteria are met.

Original jurisdiction is hereby vested in the supreme judicial court upon the petition of any voter of the commonwealth for judicial relief relative to the establishment of the congressional districts. The general court may by law limit the time within which judicial proceedings may be instituted to challenge any redistricting.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 23 members voted in the affirmative and 132 members voted in the negative

Amendment
rejected,--
yea and nay
No. 26.

[See Yea and Nay No. 26 in Supplement.]

Therefore the amendment was rejected.

On the question on adoption of the order, in concurrence, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 23 members voted in the affirmative and 132 members voted in the negative

Order adopted,--
yea and nay
No. 27.

[See Yea and Nay No. 27 in Supplement.]

Therefore the order was adopted, in concurrence.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet on Monday next at eleven o'clock A.M.

Next sitting.

At fourteen minutes before three o'clock P.M., on motion of Mr. Petrolati of Ludlow (Mr. Mariano of Quincy being in the Chair), the House adjourned, to meet the following Monday at eleven o'clock A.M., in an Informal Session.